



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,062	12/03/2004	Moriharu Sakai	033498-044	8729

21839 7590 03/17/2006

BUCHANAN INGERSOLL PC  
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)  
POST OFFICE BOX 1404  
ALEXANDRIA, VA 22313-1404

EXAMINER

WILLIAMS, THOMAS J

ART UNIT PAPER NUMBER

3683

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/517,062

**Applicant(s)**

SAKAI ET AL.

**Examiner**

Thomas J. Williams

**Art Unit**

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 6 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/3/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Acknowledgment is made in the receipt of the information disclosure statement, the oath and the preliminary amendment filed December 3, 2004.

#### ***Information Disclosure Statement***

2. The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a).

3. The information disclosure statement filed December 3, 2004 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about

Art Unit: 3683

the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

JP 50-100703, 49-2228 and 54-122528 have been filed without an English language abstract or explanation.

### *Specification*

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The phrase "means" appears in lines 2, 3, 7, 8, 11 and 12.

### *Claim Rejections - 35 USC § 112*

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Regarding claim 3, it is unclear to the examiner how one can have a situation in which a "vehicle is still going to crash into the obstacle" (line 6) when it is previously recited in line 4 "that the vehicle is crashing into the obstacle".

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,447,009 to McMillan in view of US 4,095,551 to Paul et al.

Re-claims 1 and 6, McMillan discloses an emergency brake system comprising: a first brake means (i.e. traditional brakes), a second brake means 6 for increasing the frictional resistance with a road surface, an obstacle detector 10 detects an obstacle existing in an advancing direction, a collision determining means, see column 2 lines 59-64, wherein when it is determined that the vehicle is going to crash by the collision determination means, the second brake means is actuated, see column 3 lines 1-10. However, McMillan is silent regarding the specifics of how the collision is determined to be imminent, such as by using vehicle speed and deceleration data.

Paul et al. teach a collision warning system that utilizes vehicle speed and deceleration data when determining a potential collision. Paul et al. further teaches alerting the operator to the potential collision situation by using various alert means, see column 1 lines 61-67. It would have been obvious to one of ordinary skill in the art to have utilized the teachings of Paul et al. in the apparatus of McMillan when having to determine a potential collision and method of alerting the operator to the potential collision, thus increasing safety by giving the operator more time to react.

Re-claim 5, it stands to reason that the second brake of McMillan would have ceased operation once the vehicle is determined to be stopped. Since continued operation of the second brake means is counterproductive. It would have been obvious to one of ordinary skill in the art to have provided the apparatus of McMillan a means of ceasing operation once the vehicle is determined to be stopped, thus preventing the wasteful use of the adhesive.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over McMillan in view of Paul et al. as applied to claim 1 above, and further in view of US 6,732,969 to Tanji et al.

McMillan in view of Paul et al. fail to teach determining a collision from a hard braking detector. Tanji et al. teach a collision predicting device that uses information pertaining to a hard braking operation, see column 2 lines 39-41. It would have been obvious to one of ordinary skill in the art to have provided the apparatus of McMillan with a collision predicting device using a hard braking detector as taught by Tanji et al., thus providing the vehicle operator with a manual means by which to actuate the second brake means.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McMillan in view of Paul et al. as applied to claim 1 above, and further in view of US 5,590,937 to Heibel.

Art Unit: 3683

McMillan in view of Paul et al. fail to teach a hard braking booster for automatically boosting the first brake means. Heibel teaches an automatic brake booster operated in response to a sensed hard braking operation. It would have been obvious to one of ordinary skill in the art to have provided the apparatus of McMillan with an automatic brake booster for boosting the first brake means as taught by Heibel, thus providing a further measure of ensuring an immediate stopping of the vehicle.

***Allowable Subject Matter***

13. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kamata teach an emergency brake system comprising a second brake means for increasing the frictional resistance with a road surface.

15. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is 571-272-7128. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan, can be reached at 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3683

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

TJW

March 14, 2006

**THOMAS J. WILLIAMS**  
**PRIMARY EXAMINER**

*Thomas Williams*

AV 3683

3-14-06